

OFFICER "D" with prejudice as frivolous, without prejudice pursuant to Rule 12(b)(1), Fed.R.Civ.Pro., and for failure to state a claim on which relief can be granted.

The period for objections has expired, and plaintiff has failed to file objections to the October 15, 2009 Report and Recommendation.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that the claims by plaintiff ANDRE HURREY against defendants UNKNOWN TDCJ CORRECTIONS OFFICER "A", UNKNOWN TDCJ CORRECTIONS OFFICER "B", UNKNOWN TDCJ CORRECTIONS OFFICER "C", and UNKNOWN TDCJ CORRECTIONS OFFICER "D" are DISMISSED WITH PREJUDICE AS FRIVOLOUS, WITHOUT PREJUDICE PURSUANT TO RULE 12(b)(1), FED.R.CIV.PRO., AND FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

All pending motions are DENIED.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box

13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

IT IS SO ORDERED.

ENTERED this 4th day of November, 2009.

/s/ Mary Lou Robinson
MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE